



Michigan Psychiatric Society

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My name is Kathleen Gross, I am Executive Director of the Michigan Psychiatric Society, a district branch of the American Psychiatric Association. MPS represents 800 physicians in Michigan who specialize in psychiatry. Today I am here to testify in opposition to HBs 4468, 4469 and 5043.

Taken together, these bills would require mandatory and permanent revocation or denial of a license for a licensee convicted of felony-level criminal sexual conduct.

The Michigan Psychiatric Society adheres to and upholds the ethical code of the medical profession, specifically defined in *the Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry*, which state unequivocally, "Sexual activity with a current or former patient is unethical." The crossing of sexual boundaries by professionals is a serious problem and one that clearly harms patients. In no way do we want to minimize the seriousness of the problem, but rather to take effective steps to eliminate professional sexual misconduct.

In Michigan, there are criminal penalties for professional sexual exploitation, and the conduct that is subject to felony penalties appears to be the most serious of such violations. However, Michigan statutes may be applicable to a single incident that may or may not have arisen out of criminal intent.

In addition, there is an active bill in the House Judiciary Committee that would impose 3rd degree felony penalties for a mental professional convicted of criminal sexual contact, which includes "intentional touching". We feel that in some cases, this level of penalty could be disproportionate.

It is for this reason that we believe that Michigan's licensing boards should not be stripped of their function to apply appropriate sanctions for offending health professionals. Current law does require the boards to investigate and sanction health professionals who are convicted of any level of criminal sexual conduct.

A review of other states does not provide many comparable statutes. Tennessee has proposed legislation that would prohibit a licensee from practicing while listed on the Sex Offender Registry. Current Michigan law lists a mental health professional convicted of 4th degree misdemeanor sexual contact on our Sex Offender Registry for 25 years.

Finally, it seems counterproductive to establish, fund and empower medical boards to issue licenses and regulate medical practice, but then remove their investigative and discipline function for selected situations--for which the legislature would create mandatory automatic sanctions. We believe there are cases where this would produce unjust results and block the potential for rehabilitation of a health professional.

If there are problems with the disciplinary process in Michigan, we should study the problems and seek solutions that help our licensing boards continue their important regulatory functions and continue to protect the public. Thank you for the opportunity to present our views on this issue.

MPS is a District Branch of the American Psychiatric Association
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